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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,458	05/25/2001	Gary G. Meadows	618.002US1	4123

21186 7590 11/30/2001

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EXAMINER

GOLDBERG, JEROME D

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 11/30/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/866,458

Applicant(s)

MEADOWS ET AL.

Examiner

Jerome D Goldberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

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Restriction to one the following inventions is required under 35 U.S.C. 121.

Group I: Claims 1-4 and 8-20 drawn to treating cancer with a serotonin agent alone.

Group II: Claims 21-30 drawn to treating cachexia employing a serotonin agent alone.

Group III: Claim 5 drawn to an enhanced combination of a serotonin agent and a chemotherapeutic agent. If Applicants elect this group, they are further required to elect a single enhanced combination of one serotonin agent with one chemotherapeutic agent.

Group IV: Claim 6 drawn to an enhanced combination of a serotonin agent and a biological therapy agent. If Applicants elect this Group, they are further required to elect a single enhanced combination of are serotonin agent with one biological therapy agent.

Group V: Claim 7 drawn to an enhanced combination of a serotonin agent and radiotherapy. If Applicants elect this Groups, they are further required to elect a singles enhanced combination of one serotonin agent and radiotherapy.

If Applicants elect eighter Group I or II, they are further required to elect a single serotonin agent. If is noted that the serotonin agent in claims 11, 14 and 25 can be heterocyclic as well as non-heterocyclic. (Note citalopram is classified in class 514, subclass 465 and paroxetine is classified in class 514, subclass 469). Applicants are, therefore, required to elect a specific serotonin agent for examination on the merits.

The several inventions above are independent and distinct, each from the other, as they have acquired a separate status in the art of treating cancer as a separate subject matter for inventive effect and require independent searches. It is noted that a reference to one enhanced

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combination of drugs would not be a reference to another enhanced combination of drugs under 35 U.S.C. 103. Further, the claims read on a multitude of enhanced combinations of drugs which would require many field of searches that would be an undue burden on the Examiner. Therefore, restriction for examination purpose is proper.

Applicants are required to make a provisional election even though this requirement is traversed.

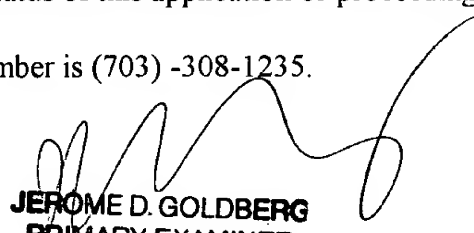
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner J. D. Goldberg whose telephone number is (703) -308-4606. The examiner can normally be reached on Tuesday through Thursday from 9:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached on (703) -308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) -308-4556 or 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) -308-1235.

Goldberg/LR

November 21, 2001



**JEROME D. GOLDBERG**  
**PRIMARY EXAMINER**